



CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY



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LINDA S. ADAMS
SECRETARY FOR
ENVIRONMENTAL PROTECTION

ARNOLD SCHWARZENEGGER
GOVERNOR

Certified Mail: 7003 1680 0000 6167 7121

April 29, 2010

Mr. Richard Sanchez, Director
Orange County Health Department
1241 East Dyer Road, Suite 120
Santa Ana, California 92705

Dear Mr. Sanchez:

The California Environmental Protection Agency (Cal/EPA), California Emergency Management Agency, Office of the State Fire Marshall, Department of Toxic Substances Control, and the State Water Resources Control Board conducted a program evaluation of the Orange County Certified Unified Program Agency (CUPA) on March 9 and 10, 2010. The evaluation was comprised of an in-office program review and field oversight inspections by State evaluators. The evaluators completed a Certified Unified Program Agency Evaluation Summary of Findings with your agency's program management staff. The Summary of Findings includes identified deficiencies, a list of preliminary corrective actions, program observations, program recommendations, and examples of outstanding program implementation.

The enclosed Evaluation Summary of Findings is now considered final and based upon review, I find that Orange County CUPAs program performance is satisfactory with some improvement needed. To complete the evaluation process, please submit Deficiency Progress Reports to Cal/EPA that depict your agency's progress towards correcting the identified deficiencies. Please submit your Deficiency Progress Reports to Mary Wren-Wilson every 90 days after the evaluation date; the first report is due on June 8, 2010.

Cal/EPA also noted during this evaluation that Orange County has worked to bring about a number of local program innovations, including an extensive and in-depth website and the "E-Submit" online portal. We will be sharing these innovations with the larger CUPA community through the Cal/EPA Unified Program website to help foster a sharing of such ideas statewide.

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Thank you for your continued commitment to the protection of public health and the environment through the implementation of your local Unified Program. If you have any questions or need further assistance, you may contact your evaluation team leader or Jim Bohon, Manager, Cal/EPA Unified Program at (916) 327-5097 or by email at jbohon@calepa.ca.gov.

Sincerely,

[Original signed by Don Johnson]

Don Johnson
Assistant Secretary
California Environmental Protection Agency

Enclosure

cc: Sent via email:

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Ms. Pearl Boelter
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Ms. Mary Wren-Wilson
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cc: Sent via email:

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Enclosure



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CERTIFIED UNIFIED PROGRAM AGENCY EVALUATION SUMMARY OF FINDINGS

CUPA: Orange County Environmental Health

Evaluation Date: March 9 & 10, 2010

EVALUATION TEAM

Cal/EPA: Mary Wren-Wilson
OSFM: Jennifer Lorenzo
SWRCB: Sean Farrow
Cal EMA: Fred Mehr

This Evaluation Summary of Findings includes the deficiencies identified during the evaluation, program observations and recommendations, and examples of outstanding program implementation activities. The evaluation findings are preliminary and subject to change upon review by state agency and CUPA management. Questions or comments can be directed to Mary Wren-Wilson at (916) 323-2204.

	<u>Deficiency</u>	<u>Preliminary Corrective Action</u>
1	<p>The CUPA is not accurately reporting information requested on the Annual Enforcement Summary Report 4. Examples are included below:</p> <ul style="list-style-type: none">• For Fiscal Year (FY) 08/09, Participating Agency (PA) Costa Mesa Fire Department reported 15 Class II and 24 Minor violations for a total of 39, yet reported no enforcement actions taken.• For FY 08/09, PA Fullerton Fire Department reported 296 Class II and 121 Minor violations for a total of 417, yet reported only 406 informal and 1 formal enforcement actions taken.• Orange County FA reported no Class I, no Class II, and 89 minor violations, yet reported no enforcement activities. <p>CCR, Title 27, Sections 15290 (a) [Cal/EPA]</p>	<p>Beginning March 10, 2010, the CUPA and PA staff will review the instructions for the Annual Summary Reports. Instructions may be found on the Cal/EPA Unified Program Web site at http://www1.calepa.ca.gov/CUPA/Publications/.</p> <p>By the first progress report due June 8, 2010 the CUPA will develop, submit, and implement a process to ensure that the information required on the Annual Summary Reports are obtained and reported as accurately as possible. For any discrepancies, explanations should be noted as footnotes at the end of the report and/or summarized in the annual self-audit.</p> <p>By September 30, 2010, the CUPA will submit its Annual Summary Reports to Cal/EPA.</p>

Certified Unified Program Agency (CUPA)
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<p style="text-align: center;">2</p>	<p>Because the CUPA chooses to require the map, they need to ensure the maps meet the requirements of the law as shown in the Annotated Site Map (Appendix A, OES Form 732 (map)(4/96) or a modification of the Annotated Site Map.</p> <p>80% of the files reviewed did not meet the minimum requirements for the California Annotated Site Map.</p> <p>CCR, Title 19, Division 2, Article 4, Section 2729.2, (a)(3) [Cal EMA]</p>	<p>Beginning March 10, 2010, the CUPA shall begin reviewing all subsequently submitted site maps for compliance with the minimum requirements.</p> <p>With the first progress report due June 8, 2010, the CUPA shall submit an update outlining the process used to ensure proper review of submitted maps.</p> <p>At the very least, the map should show the following:</p> <ol style="list-style-type: none"> 1. Site Layout <ul style="list-style-type: none"> • Scale of map • Site Orientation (north, south, etc.) • Loading areas • Parking lots • Internal roads • Storm and sewer drains • Adjacent property use • Locations and names of adjacent streets and alleys • Access and egress points and roads 2. Facility <ul style="list-style-type: none"> • Location of each storage area • Location of each hazardous material handling area • Location of emergency response equipment. For example, equipment for fire suppression, approach and mitigation, protective clothing, medical response, etc.
<p style="text-align: center;">3</p>	<p>The CUPA is not collecting all of the new UST data elements for permit renewals that came into effect in December 2007. File review indicates that UPCF forms are either outdated or missing.</p> <p>HSC, Chapter 6.7, Section 25286(a); CCR, Title 23, Section 2711(a); and CCR, Title 27, Section 15185(a) [SWRCB]</p>	<p>Immediately, the CUPA will start to collect the new UST data elements.</p> <p>With the first progress report due June 8, 2010, the CUPA shall submit three sets of submitted UPCF Forms A, B, and D.</p>

Certified Unified Program Agency (CUPA)
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CUPA Representative

Pearl Beolter
(Print Name)

Original signed
(Signature)

Evaluation Team Leader

Mary Wren-Wilson
(Print Name)

Original signed
(Signature)

Certified Unified Program Agency (CUPA)
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PROGRAM OBSERVATIONS AND RECOMMENDATIONS

The observations and recommendations provided in this section address activities the CUPA are implementing and/or may include areas for continuous improvement not specifically required of the CUPA by regulation or statute.

- 1. Observation:** The CUPA continues to demonstrate remarkable coordination and communication with its participating agencies (PAs) and also the City of Anaheim CUPA. The CUPA and its PAs meet quarterly. The CUPA is an active participant in several Unified Program meetings/events, regional committees, technical advisory groups, and work groups. The CUPA also maintains an excellent relationship with its DA and attends the monthly strike force task group meetings.

Recommendation: Cal/EPA recommends that the CUPA continue with these coordination and communication efforts.

- 2. Observation:** Since the last evaluation, the CUPA has developed a more comprehensive evaluation of its PAs. Additionally, the CUPA has begun conducting oversight inspections along with its PA inspectors.

Recommendation: Cal/EPA recommends that the CUPA continue this comprehensive PA evaluation process.

- 3. Observation:** During the UST oversight inspection, the CUPA inspector did not introduce herself or ask for permission to inspect the facility. One could assume that permission was granted because contact occurred between the facility, service technician, and the CUPA inspector to schedule the annual monitoring certification, but the common practice to ask for permission when on site did not occur. Otherwise, the CUPA inspector conducted a flawless inspection. The inspector seemed to have a good working relationship with both the facility owner and the service technician; knew the facility inside and out; combined both the UST inspection with the Hazardous waste inspection; and performed a thorough file review. During the out brief, the inspector did an excellent job at explaining the findings and answering questions that came up.

Recommendation: In the future, DTSC and SWRCB recommend that inspectors introduce themselves to the attendant onsite, obtain permission to inspect, and inform the attendant what will be covered in the inspection.

- 4. Observation:** The CUPA's UST inspection report does not distinguish among Class I, Class II, and minor violations, and does not identify Significant Operational Compliance items or provide for a summary of these items for tracking purposes during the annual compliance inspection.

Recommendation: SWRCB recommends that the CUPA modify its UST inspection report so each violation can be classified separately to distinguish between enforcement modes for Class I, Class II and minor violations, and provide a means for determining SOC compliance during the inspection. Classification of the violations and SOC criteria will assist in reporting information on the Annual Enforcement Summary Reports.

- 5. Observation:** The CUPA's UST inspection report does not distinguish among Class I, Class II, and minor violations and does not identify Significant Operational Compliance items or provide for a summary of these items for tracking purposes during the annual compliance inspection.

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Recommendation: SWRCB recommends that the CUPA modify its UST inspection report so that each violation can be classified separately to distinguish between enforcement modes for Class I, Class II and minor violations and provide a means for determining SOC compliance during the inspection. Classification of the violations and SOC criteria will assist in reporting information on the Annual Enforcement Summary Reports.

EXAMPLES OF OUTSTANDING PROGRAM IMPLEMENTATION

- 1. Outreach Activities:** The County of Orange Health Care Agency CUPA maintains an excellent public outreach program. Examples of this program are included below.

- **Web site** – The CUPA’s web site for the public and regulated community is extensive and has an in-depth overview of each of the program elements, which they are continuously revising to be modeled after their APSA program web page

The CUPA’s APSA program web site is a user-friendly webpage with various tools and resources for the regulated community with the following: a general overview of the program, new updates or releases including an online training video for the public, frequently asked questions (FAQs) and link to FAQs recently uploaded on the Cal CUPA Forum site, requirements of the Spill Prevention, Control, and Countermeasure (SPCC) Plan and link to the SPCC plan template, fact sheets, links to federal and state laws/regulations, and other pertinent sites. Several manuals on basic requirements for the small and medium-sized regulated businesses have been developed for the hazardous waste and underground storage tank programs. The CUPA provides extensive information on universal waste on its web site. In addition, several forms (both in PDF and MS Word formats) are provided for all the program elements, fee schedule, records request procedures, and pertinent internet links related to the Unified Program. The CUPA also publishes an annual newsletter called the CUPA Connection that includes updated information and news for the regulated communities on the Unified Program.

- **Business Assistance Workshops** –The CUPA provides at least one business assistance workshop for its regulated community every year. In 2009, two workshops were conducted: an Electronic Reporting Workshop for the City of Brea regarding hazardous materials disclosure and also an Underground Storage Tank Workshop. In 2008, the CUPA provided workshops on hazardous wastes and aboveground petroleum storage tanks. As mentioned above, two guidebooks/manuals on the basics of hazardous wastes and USTs were developed and are available on the CUPA’s Web site. The CUPA has also provided annual presentations to the California Waste Association and bimonthly updates at the Industrial Environmental Coalition of Orange County. In addition, the CUPA has a daily duty officer assigned to answer inquiries from the regulated community and general public.

- 2. Regulated Community Surveys:** To better evaluate the needs of its regulated community and the services that the CUPA provides, the CUPA conducted two surveys of its regulated businesses. In order to assess satisfaction with CUPA programs and inspectors, Orange County CUPA and the Office of Quality Management collaborated to conduct a brief survey of Orange County businesses. Of the 1,255 surveys handed out to businesses during routine on-site inspection, 486 completed surveys were returned to the CUPA (about 38.7 percent response rate, includes electronic survey submittal). The CUPA analyzed the surveys received during the one-year period from late April 2007 and late April 2008. A detailed analysis of this survey is included in the CUPA’s FY2007-2008 self-audit. As a result of the survey, the CUPA invited a handful of businesses, Focus Group, to present their needs from the CUPA. The CUPA plans to conduct this survey every five years as follow-up and for continuous improvement.

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The second survey spanned between April 2007 and October 2008. Of the 2,551 small quantity medical waste generator surveys mailed to medical, dental, and veterinary offices/labs identified 844 surveys were completed and returned to the CUPA (33 percent response rate). The CUPA analyzed the data received. A detailed analysis of this survey is included in the CUPA's FY2008-2009 self-audit and the 2009 edition of the CUPA Connection newsletter. Overall, the CUPA found that the majority of those surveyed appeared to be using appropriate methods of disposal for the universal waste and X-ray waste generated at their facilities. The CUPA identified facilities that would benefit from additional information and/or training regarding proper storage and disposal methods.

- 3. Electronic Reporting and Data Management:** The Orange County CUPA is committed to, and embraces technology for a more efficient program, better customer service, and enhanced environmental protection. Prior to the passage of Assembly Bill 2286 concerning state electronic reporting, the CUPA has been in the process of developing an online portal. On May 18, 2009, the CUPA went live on their online portal, called "e-Submit", which provided regulated businesses in the City of Brea direct access to disclose their hazardous materials inventory and emergency response plan. This portal also enabled easier access of data by emergency responders. The e-Submit portal also provides for an annual certification of no change for chemical inventories and the three-year review of the entire business plan. The CUPA's goal is to continue to extend the capability of e-Submit to all its participating agencies within the county and also incorporate other Unified Program reporting, such as the UST forms. The CUPA is currently working on a replicated program as backup in the event that e-Submit portal goes down or offline.

In addition to the e-Submit portal, the CUPA is currently testing the ER Module, which is actively used in the City of Santa Ana. This is a stand alone program based on Google Earth that is connected to a chemical lookup database, which is supported by an outside company and is linked to the NIOSH guide. The ER module uses data from the e-Submit portal. The ER Module is able to summarize data from e-Submit portal and has the capability to determine evacuation zones in the event of a release. The goal is to incorporate real-time weather data to be incorporated into this program for better simulations of hazardous materials releases.

All CUPA inspectors (excluding PA staff) are provided with a laptop so that data is accessible in the field. The CUPA's goal is for each laptop to be equipped with a wireless device for real time access to data. With e-Submit already underway, the CUPA converted over to Envision Connect. With this new conversion, the CUPA aims to develop a checklist of inspections, an e-signature capability, and have the capacity to review plans electronically, attach photos and other documents.

- 4. Inspection Program:** The CUPA has a commendable inspection program. In addition to meeting the annual inspection frequency for UST program, the CUPA has exceeded the triennial inspection frequency for the business plan, CalARP, and hazardous waste generator and tiered permit programs.
- 5. Enforcement Program:** The Orange County CUPA has an active and effective enforcement program. The CUPA utilizes both administrative enforcement orders (AEOs) and DA referrals, while fire agency PAs utilize local ordinances for administering penalties and fines, as well as using city attorney referrals. In fiscal year 2008-2009, the CUPA and its PAs initiated seventy-five AEO cases against business plan facilities, four AEOs against UST facilities, and six AEOs against hazardous waste generator facilities (four of which were RCRA LQG facilities) including one civil/criminal referral to the district attorney (DA). In fiscal year 2007-2008, the CUPA and its PAs initiated seven civil/criminal referrals to the DA/city attorney, four AEOs against UST facilities, and six AEOs against hazardous waste generators including four civil/criminal referrals.

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- 6. Internship Program:** The Orange County CUPA has an outstanding internship program that they have utilized very effectively to develop several of their more technologically advanced projects in the past few years. The interns contributed greatly to the newest layout for the CUPA newsletter, APSA video film editing, formatting of training guide books, and other educational tools. The internships have been a mutually beneficial relationship to all parties involved.